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I. STATEMENT OF POLICY

The Department of Children and Family Services (DCFS) and all Bureaus/Division/Sections under its jurisdiction reaffirm the Equal Employment Opportunity (EEO) Policy Statement by declaring that no person shall, on the basis of race, color, religion, sex, age, national origin, disability, veteran status, political belief/affiliation, genetic information or any other non-merit factor, be discriminated against in any employment practice.

The purpose of this policy statement is to afford a uniform approach to the investigation and resolution of discrimination complaints stemming from the employment practices of DCFS. This procedure shall apply to all Bureaus/Divisions/Sections of DCFS and their subordinate elements, their employees, and any applicant for employment. It is in no way intended to replace or supplant any other regulatory agency designed to investigate such charges. Nothing in this policy or the attendant procedures shall limit the right of a complainant to file her/his complaint with any other agency designed to operate in such a manner; i.e., Louisiana Department of Civil Service, ***, Louisiana Commission on Human Rights, or Federal Equal Employment Offices at the Regional and National Levels. This procedure is designed primarily to accommodate the internal processing of discriminatory complaints within DCFS.

DCFS will take affirmative action to ensure that the following will be implemented at all levels of administration:

- Recruit, hire, place, train and promote in all job classifications without regard to non-merit factors, such as, race, color, age, religion, sex, national origin, disability, veteran status, or political belief/affiliation, except where sex is a bona fide occupational qualification.
- Identify and use existing talent and potential through upgrading and promotion of present employees. All promotions will be based only on valid equal employment promotional requirements.
- Base decisions on employment so as to further the principles of equal employment opportunity.
- Ensure that all personnel actions, such as compensation, benefits, transfers, layoffs, recall from layoffs, education, tuition assistance, social and recreational programs, be administered without regard to race, color, religion, sex, age, national origin, disability, political belief/affiliation, veteran status, or any other non-merit factor.
- Consider whether reasonable accommodations could remove any barrier to employment opportunities.

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Basic guidelines and methods of achieving the goals of equal employment opportunity will be set forth in documents hereafter referred to as the Affirmative Action Plan. DCFS shall complete an acceptable affirmative action plan, and this plan shall be updated annually.

This policy applies to all DCFS employees and contractors, including interns and temporary workers. *

Refer to DCFS Civil Rights Policy 2-06, Sexual Harassment Policy for additional information on sexual harassment and filing a complaint of sexual harassment with the DCFS Bureau of General Counsel - Civil Rights Section. *

Nepotism

DCFS has no policy against employment of relatives if one such employee does not supervise the other. For that reason, the fact that an applicant is the husband or wife or other relative of an employee should have no effect on his/her consideration for employment unless an official supervisory relationship would exist while on duty.

***No member of the immediate family of an agency head shall be employed within his or her agency.**

No employee with supervisory authority shall supervise or otherwise have direct or indirect supervisory authority over any employee who is a member of his or her immediate family.

For purposes of this policy, agency means DCFS, or any division, section, or bureau thereof.


For purposes of this policy, agency head means any person with the authority to hire or fire employees within an agency.

For purposes of this policy, immediate family of an agency head refers to the following:

- Child(ren)
- Spouse
- Spouses of his or her children
- Sibling(s)
- Spouse(s) of his or her siblings
- Parent(s)**

Maternity Leave

An employee who requests leave for maternity purposes shall be granted sick and annual leave for the period of absence, provided such request is supported by a medical statement from the attending physician which specifies the date the employee shall cease work, the anticipated date of delivery, and the date of return to duty. An employee on maternity leave

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who has exhausted both sick and annual leave may be given leave without pay for the remainder of time necessary prior to return to duty. However, an employee shall not be granted leave without pay until other types of leave available for this purpose have been exhausted. Following childbirth, and upon signifying her intent to return within a reasonable time, such female employee shall be reinstated to her original job or to a position of like status and pay. The conditions applicable to her leave (other than the length) and to her return to employment, shall be in accordance with DCFS [Policy 4-04, Accrual and Use of Leave for All Employees](#).

Anti-Harassment

It is the policy of DCFS to provide a positive, productive, wholesome work environment free from all types of arbitrary, offensive, and illegal discrimination and harassment. All employees are expected to adhere to a standard of conduct that is respectful of all persons within the work environment. While DCFS desires a relaxed, friendly, but businesslike work environment, each individual is responsible for acting reasonably and with sensitivity to others. DCFS management will not tolerate unwelcome verbal or physical conduct based on sex (with or without sexual conduct), race, color, religion, national origin, age, disability, political belief/affiliation, or protected activity under the EEO statutes. Such acts of harassment are unlawful and prohibited in the workplace.


Harassment can include but is not limited to:

- Sexual advances or pressures for dates;
- Slurs, comments, jokes, innuendo;
- Inappropriate touching, beatings, threats;
- Inappropriate gestures;
- Bullying;
- Graffiti.

Employees are encouraged to report harassment in the workplace promptly before it becomes severe or pervasive. All complaints of harassment will be investigated in a prompt, thorough and impartial manner. If it is determined that harassment has occurred, immediate and appropriate corrective action will be implemented.

Retaliation

It is the policy of DCFS to provide an environment free from retaliation. A supervisor/manager cannot retaliate against an employee who filed a charge of allegation against the supervisor/manager.

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An employment* retaliation claim can be established by showing that **all** of the following have occurred:

- ***the employee**** who engaged in a protected activity;
- ***the employee**** experienced an adverse employment action; and
- there was causal connection between the protected activity and the adverse employment action ***for the employee****.


Causal connection can be shown simply by timing. An example would be an employee who was terminated soon after a protected complaint was made. The closer "in time" that the adverse employment action is to the protected activity, the more likely retaliation will be viewed. Causal connection can also be established by proving that the employee's engagement in the protected activity was a motivating factor in taking the adverse action. The employee does not have to establish that it was the only factor for taking the adverse action.

Protected activities can include:

- complaints of discrimination or harassment (Title VII, ADA, ADEA, GINA, USERRA, state statutes)
- denials of fair pay and leave (FLSA, EPZ, ERISA, state statutes)
- health and safety violations (OSHA and state equivalents, Workers' Compensation, HIPAA)
- whistleblowing (state whistleblower acts)
- reporting false claims to the government (False Claims Act and state statutes)
- actions covered by other state statutes and city ordinances

Retaliatory conduct can include a wide variety of actions, including:

- Ignoring or ostracizing, leaving out of formal or informal meetings, threatening, changing pay, changing workload, changing shifts, refusing reasonable requests
- Singling out
- Issuing verbal or written warnings
- Suspending
- Transferring
- Demoting
- Withholding opportunities for advancement
- Punishing an employee
- Punishing the complaining person's family or close friends
- Termination
- Giving negative references

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A claim of retaliation usually does not have a basis when:

- an employee did not act in good faith when making the complaint or engaging in opposition
- the adverse employment action was not a material action that would deter an employee from engaging in or supporting a protected activity
- the person who made the decision to impose the adverse employment action did not know that the employee engaged in a protected activity


Clear and concise documentation that reflects the true reason for the adverse employment action remains the key to avoid a retaliation claim.

Personal Relationships

DCFS does not prohibit friendships or personal relationships between employees and regards dating as a personal decision, provided that it does not negatively impact the workplace. However, employees should always be sensitive to the issues of favoritism or conflict of interest that these special relationships may imply in the workplace.

Conflict of interest and favoritism may also exist when there is a consensual romantic or sexual relationship in the context of employment supervision or evaluation. Dating between a supervisor and an employee is a high-risk activity and presents both legal and non-legal issues and consequences. Therefore, no supervisor may participate, directly or indirectly, in decisions involving a direct benefit to an employee with whom such a relationship exists. Neither employee shall attempt to exert influence over others who are participating in an employment decision making process. Supervisors should also understand that even in a consenting relationship there are substantial risks of charges of sexual harassment or favoritism when supervision is involved.

If a dating/sexual relationship arises between employees, one of whom supervises or has supervisory authority over the other, whether directly or indirectly, then each employee in the relationship shall inform management immediately of the fact that a relationship exists, so that appropriate steps may be taken to ensure compliance with the policy and to address other concerns.

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Any supervisor who is told by a reliable source that someone who reports to him or her is involved in a consensual romantic or sexual relationship with an employee he or she supervises shall speak confidentially with the person(s) involved. If the relationship exists, appropriate steps should be taken to ensure that employment-related decisions are made in an unbiased setting.

Disciplinary Action

In the event it is determined that an act of illegal discrimination or harassment has been committed, DCFS will implement corrective action and take disciplinary action against the perpetrator. Depending upon the nature and circumstances of the offense, discipline may range from demotion, reduction in pay, suspension, termination, or other employment related penalties or remedies.


The Department will not tolerate any retaliation, reprisals, or intimidation directed toward the complaining party, witnesses, or anyone else as a result of the filing or investigation of a discrimination or harassment complaint. Any such retaliation, reprisals, or intimidation will be considered a violation of this policy and will result in appropriate disciplinary action.

Filing and Format

Any employee of DCFS who believes that he/she has been the victim of discrimination based on any one of the prohibitive factors listed in Section I of this policy is authorized to file a complaint. The complaint must be reduced to writing and signed using the DCFS Equal Employment Opportunity Complaint Form – [Adobe version/Word version](#). *For sexual harassment, see [DCFS Policy 2-06, Sexual Harassment](#) and DCFS Sexual Harassment Complaint Form - [Adobe version/Word version](#).**

All complaints must include:

- Full name, address, and phone number of the complainant.
- Complete name of respondent and the name of the alleged discriminating supervisor or official.
- Prohibitive factor; e.g., race, sex, disability, age, religion, national origin, color, veteran status, political belief/affiliation, or any other non-merit factor. *For sexual harassment, see [DCFS Policy 2-06, Sexual Harassment](#) and DCFS Sexual Harassment Complaint Form - [Adobe version/Word version](#).**
- Description of the alleged discriminatory act.

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- Date(s) of alleged discriminatory act.
- Relief sought; e.g., promotion, back pay, stop harassment, etc.
- Any additional information that may help resolve the complaint; e.g., the names of any witnesses or others that are affected by the discrimination.

An employee who completes the initial DCFS Equal Employment Opportunity Complaint Form must be careful to include all facts pertinent to the complaint under consideration. The employee will not be permitted, once the complaint form has been submitted to the *DCFS Bureau of General Counsel - Civil Rights*, to enlarge his original statement to include additional information that goes beyond the scope and intent of the original statement. A second complaint may be filed with the *Bureau of General Counsel - Civil Rights Section* instead.


Time Frame and Prohibitive Factors

In all cases involving an alleged discriminatory action or incident, complaints filed with DCFS Offices or with federal agencies must be made within 300 calendar days from the date of the alleged incident. Complaints filed with the Civil Service Commission must be made within thirty (30) calendar days from the date of the alleged incident. Only complaints based on one or more of the prohibitive factors set forth in Section I of this policy can be considered as a valid basis for alleged discrimination.

Internal Procedures – EEO Specialist Responsibilities

Whenever an employee believes he/she has been discriminated against based on race, color, religion, sex, age, national origin, disability, veteran status or other non-merit factor, the employee is urged to initiate the Complaint Procedure with the EEO Specialist, *Bureau of General Counsel - Civil Rights Section*. Contact with the EEO Specialist may be made through Human Resources or directly to the *Bureau of General Counsel - Civil Rights Section*. However, the complainant retains the right to file complaints with agencies external to DCFS at any time during the foregoing process as long as time limitations are met. The EEO Specialist's responsibilities are as follows:


- Represent management and the complainant.
- Assist the complainant in completing the proper form(s) or procedure for filing a complaint(s).

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- Counsel the complainant regarding his/her options to file a complaint; e.g., with the DCFS *Bureau of General Counsel Civil Rights Section*, the Louisiana Civil Service Commission or with federal agencies. The complainant will be informed of the suspense dates to file with each agency. The complainant may file complaints simultaneously with state and federal agencies.
- Within five working days of the receipt of the formal complaint by the EEO Specialist, an information copy of the complaint will be sent to the ***Chief Administrative and Operating Official (CAOO)****.
- The EEO Specialist shall have thirty (30) calendar days from the date of receipt of the formal complaint to investigate the charges and gather all pertinent information relevant to the complaint.
- A written report summarizing the investigation and recommending conciliation(s) will be prepared by the EEO Specialist and submitted to the CAOO on or before the thirty (30) calendar days expire.
- On or before forty (40) calendar days after the formal complaint has been received by the EEO Specialist the complainant will be informed in writing of the CAOO decision.
- If the complainant is dissatisfied with the settlement or decision rendered by the CAOO then the complainant shall have five (5) calendar days from the CAOO's decision to request that the entire matter, including the written report and any unusual or mitigating circumstances, be presented to the DCFS Secretary for a decision. Upon receipt of the complainant's notice of dissatisfaction, the DCFS Secretary will render the decision within fifteen (15) calendar days. The decision rendered by the DCFS Secretary will be final.
- All complaints and investigations are confidential. Copies of the complaint and the investigation results do not become part of the personnel record for the complainant, the alleged offender or any witnesses interviewed. The records are maintained by the *Bureau of General Counsel - Civil Rights Section*.

Disability Complaints

An employee of DCFS who believes he/she has been discriminated against based on a disability should file a complaint to the EEO Specialist, DCFS *Bureau of General Counsel - Civil Rights Section* and/or the EEOC. Complaints filed with DCFS will be processed in the same manner as outlined above.

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Equal Employment Opportunity Commission
New Orleans Field Office
1555 Poydras St., Suite 1900
New Orleans, LA. 70112

Louisiana Department of Children and Family Services
Bureau of General Counsel - Civil Rights Section
P.O. Box 1887
Baton Rouge, LA. 70821

Applicant Complaints

An applicant for employment with DCFS who believes he/she has been discriminated against based on one or more of the prohibitive factors should file a complaint directly with the Equal Employment Opportunity Commission (EEOC), and/or Louisiana Commission on Human Rights.


Equal Employment Opportunity Commission
New Orleans Field Office
1555 Poydras St., Suite 1900
New Orleans, LA. 70112

Louisiana Commission on Human Rights
P.O. Box 94004
Baton Rouge, LA. 70804-9004

The complainant will be notified when corrective action in individual cases can be influenced or accomplished only by official action of those agencies external to DCFS. Conduct found in violation of this policy does not necessarily establish a violation of state or federal antidiscrimination laws.

II. PROCEDURES

While Article X of the State Constitution states that acts (charges) of discrimination can be appealed to the Louisiana Civil Service Commission, primary responsibility for the investigation/resolution of EEO complaints filed internally lies with the appointing authority for each Division (Secretary/Undersecretary/Deputy Secretary). These officials shall also be responsible for the dissemination of the Complaint Investigation Procedure to all employees and for its implementation. Each appointing authority is responsible for processing charges of discrimination from complainants within their Division, either directly or through the Specialist.

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Every effort should be made to resolve complaints at the lowest possible level. Each official should ensure that supervisors are aware of all current EEO policies and procedures and that the supervisor is accountable as a representative of executive management for implementation of the DCFS policy on equal employment opportunity.

The DCFS Secretary has overall responsibility for the reaffirmation of policy and program development. Responsibility for coordination of the program has been delegated to the DCFS *Bureau of General Counsel - Civil Rights Section*. The responsibility to implement this policy through the Affirmative Action rests with the appropriate Appointing Authority. Any person having a question concerning equal employment opportunity should contact the Equal Employment Opportunity (EEO) Specialist in the *Bureau of General Counsel - Civil Rights Section*. Human Resources is responsible for establishing, implementing and operating a reporting and monitoring system that will periodically show program results throughout the plan year. All personnel in DCFS with any responsibility for recruitment, appointment, placement, evaluation, training or any other aspect of personnel management are charged with the responsibility for seeing that this policy is successfully implemented by giving it full support through active cooperation and personal example. All such persons shall be evaluated on the basis of their equal employment efforts and results in addition to the usual standards of performance. Persons who fail to adhere to the EEO policy are subject to administrative disciplinary actions. DCFS will periodically analyze its personnel actions to ensure compliance with this policy.

III. FORMS AND INSTRUCTIONS

- DCFS Equal Employment Opportunity Complaint Form – [Adobe version/Word version](#)
- DCFS [Equal Employment Opportunity Policy Statement](#)
- Receipt of Non-Discrimination Policies and Statements Acknowledgement Form – [Adobe version/Word version](#)
- [Receipt of Non-Discrimination Policies and Statements Acknowledgement Form Instructions](#)


IV. REFERENCES

Chief Administrative and Operating Official (CAOO) – For purposes of this policy statement the appointing authority of each respective Division (Secretary/Undersecretary/Deputy Secretary).

Complainant/Charging Party – Person alleging discrimination.

DCFS - Department of Children and Family Services

EEOC – Equal Employment Opportunity Commission.

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EEO Specialist – A designated person in the Bureau of Civil Rights, responsible for EEO functions under the direction of the Appointing Authority.

Respondent – The organizational entity and/or individual specifically identified as party to an alleged act of discrimination by complainant.

Workplace - the location, facility or place where an employee may be expected to perform any task in the course and scope of his or her assigned job duties for the Department. For the purposes of this policy, "workplace" is defined to mean any permanent or temporary location, facility, telework center, building, job-site, event, vehicle or watercraft where the employee is carrying out assigned duties and responsibilities related to his/her employment with DCFS.

The Civil Rights Act of 1866 (CRA of 1866): A federal law that declared all persons born in the United States were now citizens, without regard to race, color, or previous condition. As citizens they could make and enforce contracts, sue and be sued, give evidence in court, and inherit, purchase, lease, sell, hold, and convey real and personal property.

Title VII of the Civil Rights Act of 1964, as amended (Title VII): A federal law that prohibits discrimination based upon race, color, sex, religion, or national origin.

The Equal Employment Opportunity Act of 1972: This federal law amended Title VII to include state and local governments and applies to all employers, public and private, whether or not they receive federal fund.


The Pregnancy Discrimination Act of 1978 (amendment to Title VII): A federal law that requires employers to treat women affected by pregnancy and related conditions the same as other applicants and employees on the basis of their ability or inability to fulfill the responsibilities of a position.

The Age Discrimination in Employment Act of 1967 (ADEA): A federal law that protects individuals who are 40 years of age and older from employment discrimination.

The Americans with Disabilities Act of 1990 (ADA): A federal law that prohibits discrimination against qualified individuals with disabilities.

The Americans with Disabilities Act Amendments Act (ADAAA): A federal law which made a number of significant changes to the definition of "disability" under the Americans with Disabilities Act (ADA). It also directed the U.S. Equal Employment Opportunity Commission (EEOC) to amend its ADA regulations to reflect the changes made by the ADAAA.

The Equal Pay Act of 1963 (EPA): A federal law that protects men and women who perform substantially equal work in the same establishment from sex-based wage discrimination.

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The Civil Rights Act of 1991 (CRA of 1991): This federal law amends CRA of 1866, Title VII, ADEA, and ADA and stipulates that any intentional discrimination (sex, race, national origin, religion, disability) is unlawful and allows compensatory damages and a jury trial.

Executive Orders 11246 & 11375, as amended: Presidential directives mandating that government contractors and subcontractors take affirmative action in employment of minorities and women, stipulated the development and execution of written Affirmative Action Programs and requiring that every contract contain a clause against discrimination because of race, color, religion, sex, or national origin.

The Genetic Information Nondiscrimination Act of 2008(GINA): A federal law which prohibits employers, employment agencies, labor organizations, and joint labor management committees from discriminating against employees based on genetic information.

The Rehabilitation Act of 1973, as amended (Section 503, Section 504): A federal law that prohibits discrimination against persons with disabilities in any program/activity receiving federal assistance and requires federal contractors and subcontractors to take affirmative action to employ and advance in employment qualified individuals with disabilities.

Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA): This federal law requires nondiscrimination and affirmative action in hiring and advancement in employment of qualified Vietnam era veterans, special disabled veterans, and veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.

LA Revised Statutes (R.S.) 23:312, 23:323, 23:332, 23:342, 23:352, 23:961 & 23:962: These state laws prohibit discrimination against employees based on age, disability, race, color, religion, sex, national origin, pregnancy, childbirth and related medical conditions, Sickle Cell trait and political activity.

LA R.S. 23:967: A state law prohibiting an employer from taking reprisals against an employee who in good faith discloses or threatens to disclose illegal work-related practices, provides information or testimony before a public body investigating any such illegal activities, or objects or refuses to participate in an illegal act.

LA R.S. 29:38.1: A state law that prohibits employment discrimination based on an applicant or employee's status as member of any reserve unit of the U. S. Armed Forces or LA National Guard.